

Local and Regional Development
PO Box 8129
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Your Ref: Case 13/1718

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Dear Sirs,

With reference to your 'Hearing' and Planning and Building Act § 29-4

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- *§ 29-4. Byggverkets plassering, høyde og avstand fra nabogrense*
Byggverkets plassering, herunder høydeplassering, og byggverkets høyde skal godkjennes av kommunen. Kommunen skal påse at veglovas bestemmelser om byggegrense og frisikt blir fulgt. Bygning med gesimshøyde over 8 meter og mønehøyde over 9 meter kan bare føres opp hvor det har hjemmel i plan etter kapittel 11 eller 12.

Hvis ikke annet er bestemt i plan etter kapittel 11 eller 12, skal byggverk ha en avstand fra nabogrense som minst svarer til byggverkets halve høyde og ikke under 4 meter.

Kommunen kan godkjenne at byggverk plasseres nærmere nabogrense enn nevnt i andre ledd eller i nabogrense:

a) når eier (fester) av naboeiendommen har gitt skriftlig samtykke eller

b) ved oppføring av garasje, uthus og lignende mindre tiltak.

Nærmere bestemmelser, herunder regler om avstand mellom byggverk, beregningsmåten for høyde, avstand fra nabogrense og areal på bygning som nevnt i andre ledd¹ bokstav b, gis ved forskrift.

I have spent nearly 18 months progressing an application to build a garage attached to the side of my house.

The garage area is 38 m2 but would be partly within the 4 metre limit to the border with a neighbour.

The local Bydelsutvalget gave dispensation to build the garage but the plan was rejected by Plan- og bygningsetaten who said the Bydelsutvalget had no authority to give dispensation to allow the plans, which were then sent on appeal to Fylkesmannen.

My planning application was rejected by Fylkesmannen because the garage was 'attached' to the house and not 'detached' (friliggende) and that therefore dispensation was not possible.

If it was a detached (free standing) garage then it would be possible for dispensation to be given.

Today I queried this strange distinction between 'attached' and 'free standing' with Else-Karin Øvernes Senior Advisor
County Governor of Oslo and Akershus
PO Box 8111 Dep 0032 OSLO

And I was told the long history of debate by politicians on this section of the building regulations. (§ 29-4 third paragraph b.)) and teknisk forskrift (TEK 10) § 6-4 which can be seen on this link (in Norwegian) :-

[http://translate.google.co.uk/translate?hl=en&sl=no&tl=en&u=http%3A%2F%2Fwww.plan-og-bygningsetaten.oslo.kommune.no%2Fgetfile.php%2Fplan-%20og%20bygningsetaten%20\(PBE\)%2FInternett%20\(PBE\)%2FDokumenter%2FByggesak%2FFor%20fagfolk%2FKRD%20prinsipputtalelse%20%C2%A729-4.pdf&anno=2](http://translate.google.co.uk/translate?hl=en&sl=no&tl=en&u=http%3A%2F%2Fwww.plan-og-bygningsetaten.oslo.kommune.no%2Fgetfile.php%2Fplan-%20og%20bygningsetaten%20(PBE)%2FInternett%20(PBE)%2FDokumenter%2FByggesak%2FFor%20fagfolk%2FKRD%20prinsipputtalelse%20%C2%A729-4.pdf&anno=2)
ending with :-

*In view of the above, the Ministry finds that there is an absolute requirement that the measure is detached, ie that it is not structurally related to other building on the same site, **that the exception in the PBA. § 29-4, subparagraph b) shall be apply.** (Google translation) I found this a little confusing.*

(På bakgrunn av det ovennevnte legger departementet til grunn at det er et absolutt krav om at tiltaket er frittliggende, dvs at det ikke er bygningsmessig forbundet med annen bygning på samme tomt, for at unntaket i pbl. § 29-4 tredje ledd litra b) skal komme til Anvendelse)

I asked why there was such a distinction and was told the reason was a political decision.

As a 75 year old pensioner living in Oslo I am shocked and angry that a simple planning application to build an extension/garage on the side of my house has taken some 18 months to be decided, and then to be told my plans have been rejected due to a political decision.

As I understand you are in the process of simplifying planning regulations I would urge you to review the Planning and Building Act § 29-4, and ensure it is based on 'common sense' and real reasons, not on a political decision.

If there is a distinct restriction regarding dispensation (e.g. an attached garage) then it should be clearly shown or referred to in the relevant section/paragraph (e.g. (§ 29-4 third paragraph b.)), this would save applicants a lot of wasted time, effort and money in making a planning application that had no chance of success.

The subject of Visual Qualities (PBA § 29-2, House Plan § 7) needs addressing to give serious and extensive revision to limit all the descriptive 'rubbish', which takes up pages (even on a minor garage application) and is quite arbitrary as the writer has seldom visited the site to give a valid opinion/decision.

I would like to be more explicit, but as I have only learned of your 'Hearing' today (the last date to make comments) there is no time.

I wish you success in your task of simplifying the Rules, not an easy task and hope you find my comments of use in your work.

Yours sincerely, (and a very disillusioned/despondent applicant)

Michael Moyses (C.Eng., M.I.Mech.E. rtd.)